

the Assistant Secretary setting out the results of the balloting; and pertinent details of the hearing and vote. Notice thereof shall be given to the membership of such labor organization promptly and copies shall be furnished to all interested parties.

**§ 417.24 Appeal to the Assistant Secretary.**

(a) Within 15 days after mailing of the report of the Assistant Secretary's Representative, any interested party may appeal the conduct of the hearing or vote or both by filing written exceptions with the Assistant Secretary. Blanket appeals shall not be received. Impertinent or scandalous matter may be stricken by the Assistant Secretary, or an appeal containing such matter or lacking in specifications may be dismissed.

(b) Upon review of the whole record, the Assistant Secretary shall issue a decision or may order further hearing, a new vote, or such further proceedings as he deems appropriate.

[29 FR 8264, July 1, 1964, as amended at 50 FR 31310, Aug. 1, 1985]

**§ 417.25 Certification of results of vote.**

Upon receipt of the report of the Assistant Secretary's Representative on the hearing and vote on removal, the Assistant Secretary shall certify the results of the vote to the court as required by section 402(c) of the Act.

**PART 451—LABOR ORGANIZATIONS AS DEFINED IN THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959**

Sec.

451.1 Introductory statement.

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451.4 Labor organizations under section 3(j).

451.5 "State or local central body."

451.6 Extraterritorial application.

AUTHORITY: Secs. 3, 208, 401, 73 Stat. 520, 529, 532 (29 U.S.C. 402, 438, 481); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 28 FR 14388, Dec. 27, 1963, unless otherwise noted.

**§ 451.1 Introductory statement.**

(a) This part discusses the meaning and scope of sections 3(i) and 3(j) of the Labor-Management Reporting and Disclosure Act of 1959<sup>1</sup> (hereinafter referred to as the Act). These provisions define the terms "labor organization" and "labor organization \* \* \* in an industry affecting commerce" for purposes of the Act.<sup>2</sup>

(b) The Act imposes on labor organizations various obligations and prohibitions relating generally, among other things, to the reporting of information and election and removal of officers. Requirements are also imposed on the officers, representatives, and employees of labor organizations. In addition, certain rights are guaranteed the members thereof. It thus becomes a matter of importance to determine what organizations are included within the applicability of the Act.

(c) The provisions of the Act, other than title I and amendments to other statutes contained in section 505 and title VII, are subject to the general investigatory authority of the Secretary of Labor embodied in section 601<sup>3</sup> (and delegated by him to the Assistant Secretary), which empowers him to investigate whenever he believes it necessary in order to determine whether any person has violated or is about to violate such provisions. The correctness of an interpretation of these provisions can be determined finally and authoritatively only by the courts. It is necessary, however, for the Assistant Secretary to reach informed conclusions as to the meaning of the law to enable him to carry out his statutory

<sup>1</sup>73 Stat. 520, 521, 29 U.S.C. 402.

<sup>2</sup>It should be noted that the definition of the term "labor organization," as well as other terms, in section 3 are for purposes of those portions of the Act included in titles I, II, III, IV, V (except section 505) and VI. They do not apply to title VII, which contains amendments of the National Labor Relations Act, as amended, nor to section 505 of title V, which amends section 302 (a), (b), and (c) of the Labor Management Relations Act, 1947, as amended. The terms used in title VII and section 505 of title V have the same meaning as they have under the National Labor Relations Act, as amended, and the Labor Management Relations Act, 1947, as amended.

<sup>3</sup>Sec. 601, 73 Stat. 539, 29 U.S.C. 521.

duties of administration and enforcement. The interpretations of the Assistant Secretary contained in this part, which are issued upon the advice of the Solicitor of Labor, indicate the construction of the law which will guide him in performing his duties unless and until he is directed otherwise by authoritative rulings of the courts or unless and until he subsequently decides that a prior interpretation is incorrect. However, the omission to discuss a particular problem in this part, or in interpretations supplementing it, should not be taken to indicate the adoption of any position by the Assistant Secretary with respect to such problem or to constitute an administrative interpretation or practice. Interpretations of the Assistant Secretary with respect to the meaning of the terms "labor organization" and "labor organization \* \* \* in an industry affecting commerce," as used in the Act, are set forth in this part to provide those affected by the provisions of the Act with "a practical guide \* \* \* as to how the office representing the public interest in its enforcement will seek to apply it."<sup>4</sup>

(d) To the extent that prior opinions and interpretations relating to the meaning of "labor organization" and "labor organization \* \* \* in an industry affecting commerce" are inconsistent or in conflict with the principles stated in this part, they are hereby rescinded and withdrawn.

[28 FR 14388, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985]

#### § 451.2 General.

A "labor organization" under the Act must qualify under section 3(i). It must also be engaged in an industry affecting commerce. In accordance with the broad language used and the manifest congressional intent, the language will be construed broadly to include all labor organizations of any kind other than those clearly shown to be outside the scope of the Act.

#### § 451.3 Requirements of section 3(i).

(a) *Organizations which deal with employers.* (1) The term "labor organization" includes "any organization of

any kind, any agency, or employee representation committee, group, association, or plan \* \* \* in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, \* \* \*." The quoted language is deemed sufficiently broad to encompass any labor organization irrespective of size or formal attributes. While it is necessary for employees to participate therein, such participating employees need not necessarily be the employees of the employer with whom the organization deals. In determining who are "employees" for purposes of this provision, resort must be had to the broad definition of "employee" contained in section 3(f) of the Act.<sup>5</sup> It will be noted that the term includes employees whose work has ceased for certain specified reasons, including any current labor dispute.

(2) To come within the quoted language in section 3(i) the organization must exist for the purpose, in whole or in part, of dealing with employers concerning grievances, etc. In determining whether a given organization exists wholly or partially for such purpose, consideration will be given not only to formal documents, such as its constitution or bylaws, but the actual functions and practices of the organization as well. Thus, employee committees which regularly meet with management to discuss problems of mutual interest and handle grievances are "labor organizations", even though they have no formal organizational structure.<sup>6</sup>

(3) Since the types of labor organizations described in subparagraph (2) of this paragraph are those which deal

<sup>5</sup>Sec. 3(f) reads: "'Employee' means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act."

<sup>6</sup>*National Labor Relations Board v. Cabot Carbon Co.*, 360 U.S. 203.

<sup>4</sup>*Skidmore v. Swift & Co.*, 323 U.S. 134, 138.